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HUMAN RIGHTS COMMITTEE

Eighty-second session

SUMMARY RECORD OF THE 2230th MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 20 October 2004, at 3 p.m.

Chairperson: Mr. AMOR

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 6) (continued)

Initial report of Albania (continued) (CCPR/C/ALB/2004/1; CCPR/C/82/L/ALB)

1. At the invitation of the Chairperson, the members of the delegation of Albania resumed their places at the Committee table.

2. Mr. NINA (Albania), responding to question 23 of the list of issues (CCPR/C/82/L/ALB), said that his Government had set a number of key objectives in the implementation of the National Strategy for Children. They related to the right to life and included: lowering maternal and infant mortality rates; lowering the incidence of anaemia in pregnant women; vaccination coverage of over 95 per cent of children; adoption of the Family Code; preparation of the draft law on civil status; amendments to the Code of Criminal Procedure; establishment of trafficking units in the Ministry of Public Order and all police forces; and training judges involved in trying minors.

3. As to children's right to protection, the Strategy aimed to: incorporate modules on the Convention on the Rights of the Child in the curricula of the Academy of Public Order and the Police Institute; adopt measures for the prevention of arduous labour by children; improve children's working conditions; train parents and teachers in children's rights; encourage public debate on the protection of children's rights; and gradually replace "children's homes" with smaller institutions.

4. In the area of child development it was hoped that a complete programme of elementary education would be developed and kindergarten facilities and equipment improved. The organization of national children's song festivals, the establishment of school libraries and the development of modules relating to the main human rights instruments were also included among the objectives. To promote participation by young people, a national network of students' senates would be established, and various activities such as televised debates and seminars would be organized to raise awareness that the participation of children in decision-making in the family, schools and society was a human right.

5. The majority of objectives set on adoption of the Strategy had already been achieved, and the necessary steps had been taken to implement the remainder within the established time frame.

6. Referring to question 24 on the rights of members of minorities to take part in public affairs, he said that, under the Civil Service Act, which provided for open competitive examinations for entry into the civil service, national, ethno-linguistic and religious communities had equal access to State employment. In 2004, the Council of Ministers had established the State Committee on Minorities, which cooperated with the central and local authorities and organizations working for the protection of minority rights, so as to encourage members of minorities to actively participate in public life. The Committee made proposals for the economic, social and educational development of minorities. The establishment of the

Committee reflected the Government's commitment to promoting and protecting the rights of minorities, and sustaining initiatives that contributed to the preservation and development of their national, cultural and linguistic identity.

7. Active participation of minorities in public affairs and cultural, social and economic life was achieved through the participation of their representatives in central or local government. Although permitted to do so by law, none of the minorities had established their own political parties. However, as there were a number of members of minorities in each existing party, the representation of their interests was ensured. Although it had never claimed to belong to a particular minority, the Human Rights Union Party was generally considered to represent minority interests. There had always been an average of 5 to 10 people belonging to minorities (mainly the Greek minority) elected to Parliament. There was a special commission in Parliament dealing with human rights and minorities.

8. Members of the Greek minority worked in a variety of State institutions such as the prefectures, regional councils, various public departments, customs and tax offices. As to the Macedonian minority in the commune of Liqenas, all the local government officials were members of that minority, which was also represented on the regional council of Korça. Members of the Macedonian minority also worked in various departments in the public sector and the State police. Statistics on the access of other minorities to public institutions were not available.

9. Mr. OMARI (Albania) said that there was a long tradition of peaceful coexistence between the various ethnic groups. Although the country was considered ethnically homogeneous, the rights of a number of minorities were specifically recognized in the Constitution and other legislation. The three national minorities were the Greeks, the Macedonians, and a small Serbian and Montenegrin minority. In addition, the Aromanians and the Roma were classed as an ethno-linguistic minority, as neither group had a motherland. The group claiming to be of Egyptian origin had not been granted minority status, as its only link to that country was that, like the Roma, they had arrived in Albania from India via Egypt. Unlike the Roma, that community had lost its language and was fully assimilated into Albanian society.

10. The Roma community faced serious social problems. Despite significant progress and efforts on the part of the Government, the Roma remained the most disadvantaged group in society. In general, they lived in poverty and their illiteracy levels were high. In response, the authorities had taken measures to encourage school attendance among the Roma population.

11. Ms. EMINI (Albania), responding to question 25 on the prevention of discrimination against minorities, said that the measures taken were based on the traditional values of Albania's long history of non-discrimination and close observance of human rights standards, in accordance with the principles embodied in the main international instruments. Constitutional and legislative provisions permitted positive discrimination in favour of minorities. In addition, policies and practices which could be detrimental to members of minorities were prohibited. Increasing public awareness of human rights and discrimination was a priority, although much remained to be done in that regard.

12. A working group had been established in 2002 with the aim of reviewing legal provisions for the protection and observance of the rights of minorities, identifying gaps in the legal system

and planning future legislation. The group had concluded its work in December 2003, issuing recommendations which had been incorporated in the action plan for implementation of the priorities of the European Partnership for Albania. The recommendations, which had been submitted to the Ministry of Public Order, included proposals for the amendment of the complaint procedure for discrimination cases involving the police and expediting procedures for the compensation of victims in such cases. The strengthening of the administrative and judicial mechanisms for the protection of minority rights, including the Office of the People's Advocate, had also been recommended.

13. With regard to education, as part of overall reforms working groups had been established to review and draft school curricula and texts for pupils belonging to minorities. On the question of members of minorities in the police, a law passed in 1999 provided for the recruitment of Albanian citizens as police officers without distinction as to race, ethnic origin, sex, political belief or religion. The working group on minorities had recommended that the law be amended to provide for a quota for "minority" police officers in areas where there was a high concentration of that minority.

14. Albania had historically been characterized by peaceful religious coexistence. Religious services and processions were conducted in the minority language. In addition to funds allocated from the State budget, the State also granted religious communities tax incentives and financial assistance for the restoration of buildings, as well as allocating public sites for the construction of religious centres free of charge or for a nominal fee.

15. With regard to the Roma minority, the Government, taking into consideration the economic, social, employment, housing, educational, cultural and infrastructural problems which they faced, had adopted a national strategy for the improvement of Roma living conditions in 2003, and a body had been established within the Ministry of Labour and Social Affairs to oversee its implementation.

16. Mr. NINA (Albania), responding to question 26, said that ethno-linguistic minority status did not have any negative or discriminatory effect on the implementation of the provisions of the Council of Europe's Framework Convention for the Protection of National Minorities or the International Convention on the Elimination of All Forms of Racial Discrimination.

17. No data relating to the Roma population had been collected. Although the Roma were not subjected to any form of discrimination, they had a particularly low standard of living. A national strategy had been established to improve Roma living conditions, the main objectives being: to eliminate discrimination; to encourage Roma participation in economic, social and cultural activity; to establish a think tank group to represent the Roma community; and to establish an acceptable identity for the Roma population. The strategy had already had a positive impact on the Roma's living conditions and their integration into Albanian society.

18. His Government considered the unrestricted use of language to be particularly important for the preservation of minority cultures. In areas with high concentrations of minorities, such groups could choose to use their native language when communicating with the authorities. All central and local government documents were issued in Albanian. The Government acknowledged that further measures needed to be taken to improve the legislative framework for minorities, and a working group had been established to that end. All candidates for the civil

service must be Albanian citizens, and must have the relevant educational background and professional experience required to perform their professional duties. Entry into the civil service was through open competition and based on merit.

19. Albania's initial report had been published on the Ministry of Foreign Affairs web site and included in the Ministry's press releases. It had been circulated to other ministries and human rights NGOs. The list of issues submitted to the Government by the Committee had also been distributed to a number of ministries and NGOs. The contents of all Albania's reports on the implementation of human rights instruments had been discussed during a press conference at which representatives of the electronic and print media had been present. The Committee's concluding observations would also be posted on the Ministry of Foreign Affairs web site, published in a press release, and distributed to human rights NGOs. The Government was planning to include all treaty body documents and human rights materials on a CD Rom, which would be distributed to all entities working in the human rights sector in Albania.

20. The provisions of the Covenant were included in training for future legal, military and administrative staff, and some information, particularly information pertaining to children's rights, was included in teacher training programmes. A selection of books on human rights issues had been published for teachers.

21. Mr. SCHEININ requested further information on pre-trial detention. He asked under what circumstances bail was granted, and whether it was regarded as a mechanism for reducing the number of people detained during police investigations. Information should be provided on conditions in police detention facilities. The Committee had been informed that approximately 10 per cent of detainees in Albania were being held in police detention, and that conditions were well below international minimum standards. He wished to know if that was indeed the case and, if so, whether measures were being taken to rectify the situation. Mechanisms should be established f[illegible] allowing international organizations, NGOs and inspectors access to police detention facilities. Efforts should be made to ensure the segregation of juvenile detainees, since reports had been received on sexual abuse of adolescent inmates in prisons. The delegation had mentioned that there was no violence against juveniles in detention, and he wondered whether there were any other categories of detainees against whom physical abuse was used as a disciplinary measure.

22. Turning to the issue of minorities, he asked what measures had been taken to implement the recommendations of the Advisory Committee set up under the Framework Convention for the Protection of National Minorities, which had called for the establishment of electoral or consultative guarantees to ensure the public participation of minorities, and the improvement of minority access to public services, particularly the police, army and judiciary.

23. He requested further demographic statistics on minorities, since the Committee had received contradictory information. He particularly wished to know the size of the Roma population, as an approximate percentage of the total population. International entities such as the European Commission against Racism and Intolerance had reported multiple discrimination against the Egyptian and Roma communities, which was exacerbated by corruption, since members of those communities did not have the means to engage in bribery, and were therefore

treated particularly badly by the police and authorities. Measures must be taken to address such types of multiple discrimination, and particular attention must be paid to protecting Roma and Egyptian children against trafficking.

24. Article 27 of the Covenant did not contain a requirement that members of national minority groups must have a kin State. The Covenant provided for the protection of minority cultures, languages and traditions, and distinctions should not be made between groups that did and did not have a homeland. Although the delegation had informed the Committee that there was no discrimination against ethno-linguistic minorities, Roma children did not have access to education in their own language, a fact which led to social exclusion, exclusion from further education and illiteracy. Setting criteria for defining national minorities was unacceptable if it led to exclusion, as had been the case with the Roma in Albania. He hoped that the State party would discontinue the practice of differentiating between "national" and "ethno-linguistic" minorities.

25. Mr. KÄLIN asked about the impact of the measures taken to encourage the registration of non-local citizens. Although the measures might be effective in avoiding non-registration in future, he doubted that they were having an immediate effect on reducing the number of citizens who were currently unregistered, since it was unlikely that such people had the means to return to the civil status office in their previous place of registration to collect the necessary registration documents.

26. He requested further information on the Roma language courses mentioned by the delegation in its reply to question 26. Greek minority leaders in Albania had complained about language problems and the lack of official recognition of Greek ethnic areas. In certain regions, despite Greek being the predominant nationality, children were not granted access to education in their native language. He asked why that was the case, and whether the Government intended to take any measures to rectify the situation.

27. Turning to the question of disseminating information about the Covenant and the texts of Committee documents, he asked whether the Government would have the Committee's concluding observations translated into Albanian, or whether they would simply be made available to the public in the Committee's working languages.

28. Mr. WIERUSZEWSKI asked how the right to a fair trial was guaranteed in Albania, and how the quality of legal assistance could be improved in order to protect that right more effectively. Although the delegation had listed a considerable number of draft laws that were currently being discussed, further information was required on their content. According to the Committee's information, the judiciary was facing serious financial problems and lacked the necessary infrastructures to function effectively. The Government must endeavour to address those problems, since the judiciary should be the backbone of human rights protection. Particular attention should be paid to eliminating corruption by increasing salaries for public service personnel, such as the police.

29. The fact that the High Council of Justice was chaired by the President of Albania or, in his absence, the Minister of Justice tended to cast doubt on the independence of the judiciary. He asked how the Council functioned, what were the duties of the President and the Minister of Justice, and what general measures were being taken to eliminate interference by State officials

in the work of the judiciary. What had been the effect of the measures taken to improve the execution of judicial decisions? And to what extent did military courts have jurisdiction over civilians?

30. Mr. ANDO said he would be interested in receiving the written material mentioned by the delegation regarding the peaceful coexistence of religions in Albania.

31. The delegation's lengthy written reply to question 22 on the harassment of journalists focused on the ethical norms to be complied with by journalists rather than on protective measures. He asked whether any administrative or judicial action had been taken to prevent harassment and, if so, what results had been achieved.

32. With regard to question 23, paragraph 1236 of the report referred to "children involved in labour or other profit-making activities" and mentioned cases in which court practice had resulted in unreasonable decisions that had led to the ill-treatment of children. He asked for examples of such decisions and asked what the Government was doing to remedy them. Legal sanctions against perpetrators of offences against children should be supplemented by economic and social measures to protect children at risk. The press and electronic media also had an important role to play in that regard.

33. Paragraph 1243 of the report mentioned the need to reintegrate refugee children into Albanian society. What practical measures were being taken to that end?

34. It was claimed in the written replies that most of the objectives of the National Strategy for Children had been achieved. Where figures were provided, for instance regarding the decrease in the maternal mortality rate, it was easy to assess progress, but it was not possible to assess the attainment of objectives from the drafting of legislation or from plans for teacher training. He wished to know more about the criteria underlying the statement that most objectives had been achieved.

35. Mr. SOLARI YRIGOYEN, referring to the death of Gazment Tahirllari while in police custody, said he was confused by the delegation's claim that the role of the doctors who had falsified information about the cause of death had not been of decisive importance. He asked whether any punitive action had been taken against them.

36. He understood that military service in Albania was mandatory and that, contrary to article 18 of the Covenant, there was no right of conscientious objection. Was it true that certain objectors, such as Jehovah's Witnesses, had been sentenced to prison terms?

37. Mr. SHEARER, referring to paragraph 955 of the report, noted that, according to a census taken some decades ago, 50 per cent of the population was Muslim, 20 per cent Bektash, 20 per cent Orthodox and 10 per cent Catholic. The entire population at that time had thus professed some form of religious belief. However, between 1967 and 1990 the practice of all religions had been prohibited and the 2001 census had apparently contained no question regarding religious affiliation. In the absence of such figures, he asked whether the delegation was in a position to give a rough estimate of the proportion of the population that now professed

a religious affiliation. Was the State assisting victims of former religious persecution, for instance through rehabilitation of ministers of religion, restoration of religious property or the payment of compensation to persons imprisoned for their religious beliefs?

38. Article 18 of the Albanian Constitution followed the wording of article 26 of the Covenant relatively closely but included "parentage" as an additional ground of discrimination. He wondered whether that term covered the sons or daughters of parents who had been associated with the previous authoritarian regime as party members or government officials. If not, were there people who suffered discrimination as a result of what they or their parents were suspected of having done between 1944 and 1990?

39. Sir Nigel RODLEY, referring to question 14, said he was encouraged to note that article 28 of the Constitution provided for the right of immediate access to a lawyer on detention and imposed a 48-hour time limit for bringing an arrested person before a judge.

40. Noting that the regime of detention on remand was in a transitional phase, having been transferred from the authority of the Ministry of the Interior to that of the Ministry of Justice, he asked whether it was possible, once a judge had ordered remand detention under the authority of the Ministry of Justice, for a person to be returned to custody by the Ministry of the Interior, either by judicial order or by any other means? Were there any sanctions if a person was held beyond the specified 48-hour limit? According to the written replies, an injured party could be awarded compensation for every day of illegal imprisonment. Did that provision apply only to people who had been held longer than their sentence after conviction or did it also apply to detention beyond the maximum permissible period in police custody?

41. According to an NGO, lawyers in Shkoder had gone on a one-day strike in June 2004, protesting that police, prosecutors and judges were systematically violating the legal and procedural rights of detainees, including the right of access to defence counsel from the moment of arrest and the right to confidential communication between detainees and lawyers. In the light of those allegations, he asked what practical measures were being taken to ensure that the strong legal guarantees in the Constitution were enforceable in practice and were indeed enforced.

42. Mr. CASTILLERO HOYOS expressed concern about the continued application of traditional law (the Kanun), the persistence of ill-treatment and torture by the police, apparently facilitated by a culture of impunity, and the trafficking in women and minors which, according to Human Rights Watch, accounted for some 50 per cent of all trafficking in Central and Eastern Europe.

43. Human rights organizations, and even the World Bank and the International Monetary Fund, had documented considerable inefficiency and even corruption in the Albanian judiciary so that it was difficult for all sectors of the population to have equal access to the justice system. He suggested that it was inappropriate for the President, as a member of the executive, to be a member of the High Council of Justice, which was responsible, inter alia, for taking disciplinary action against judges.

44. According to Human Rights Watch, due process rights and freedom of the press had been violated in a number of judgements recently handed down for libel. He asked whether Albania had considered decriminalizing libel and defamation.

45. Noting that corporal punishment of children was prohibited in schools, he asked whether there were plans to extend the prohibition to corporal punishment in the family and elsewhere. Given the low representation of women in electoral offices, he wondered whether Albania had considered introducing affirmative action measures to increase the number of female candidacies. He asked whether the Albanian authorities contemplated reviewing the criteria on which distinctions between linguistic minorities were based, in consultation with the groups concerned. Lastly, he wished to know whether the Government had taken any action to address the problem of "Albanophobia" affecting Albanian immigrants in other European countries.

The meeting was suspended at 5 p.m. and resumed at 5.20 p.m.

46. Mr. OMARI (Albania) said that the composition of the High Council of Justice, as set forth in the Constitution, guaranteed the independence of the judiciary. The majority of members were judges elected by secret ballot by the General Assembly of Judges. Other members were the Head of State, the President of the Supreme Court and the Minister of Justice. The Vice-President was a professor of law. The President of the Republic had no executive authority. However, the appropriateness of his membership of the Council might, if necessary, be reviewed.

47. With regard to the right of conscientious objection to military service, article 166 (2) of the Constitution stipulated that a citizen who, for reasons of conscience, refused to serve in the armed forces was obliged to perform alternative service as provided for by law. Such service could be performed, for example, in a hospital, prison or home for disabled or older persons. Exemption from military service was also granted on payment of a sum of money.

48. In response to the question on religious communities, a 1946 census had shown that 70 per cent of the population was Muslim, 20 per cent Christian Orthodox and 10 per cent Catholic. No such data had been collected since that census since religious belief was considered to be a matter of personal conscience, in accordance with the European Convention on Human Rights. Obviously, however, the situation had changed since 1946; many people were non-believers and marriages between people of different religions were common.

49. Mr. NINA (Albania) said that the issue of the so-called Egyptian community had often been misunderstood. While some individuals or groups had expressed the desire to be granted minority status, several criteria laid down in international instruments had not been met by that community. It was, in fact, too small to qualify for minority status, and did not meet the requirements concerning ethnic, cultural, religious or linguistic characteristics distinguishable from the main population, or show a commitment to preserve its culture, traditions, religion or language.

50. Since its adoption in 2001, the National Strategy for Children had been implemented by all the relevant institutions and the majority of the objectives had been met. Given that the Strategy would run until 2005, there was some work to complete. Statistics on the results of the Strategy would be available after 2005.

51. Minimal documentation was required by civil status offices in order to register a change of address. A written application, proof of the move and the family certificate from the previous civil status office were the only documents needed. The officials then dealt with the application.

The issue of people returning to their villages had nothing to do with the area where mines had been planted. That area was small and contained few villages. The Government was taking measures to clear mines from the area, with assistance from the international community.

52. Mr. HAJDARAGA (Albania) added that Slovenia and the United States of America were assisting Albania to clear mines from the area along the border with Kosovo, where thousands had been planted. The area was expected to be cleared by 2007.

53. Members of religious communities and sects had assisted with the introduction of legislation allowing conscientious objectors to perform community service instead of military service.

54. Mr. NINA (Albania), referring to measures being taken to increase the representation of women in Albanian society, drew the Committee's attention to the written replies, in which reference was made to the recently adopted law on gender equality. Details had been provided on the commitments made by the Government, public authorities and employers.

55. The Armenian minority could not be recognized as a national minority because, in line with the criteria of the relevant international instruments, the subjective factor was lacking. While it had preserved and promoted its distinctive features, thereby enriching the culture of Albania, the majority of its members rarely distinguished themselves from the rest of the population.

56. Regarding the case of Mr. Gazment Tahirllari, it was important to make it clear that the opinion of the first doctor to examine the victim had not affected the charges brought against the police officers concerned.

57. Dissemination of information relating to the Covenant was ensured through the publication, in Albanian, of the reports submitted to United Nations treaty bodies. The various committees' general comments and concluding observations were also published in Albanian.

58. The national strategy for improving the living conditions of the Roma included provisions which aimed to increase the participation of Roma in public life, a goal to which the Government was committed. The strategy also provided for measures to combat trafficking in persons, which had been implemented by all the competent ministries.

59. Mr. PAPANDILE (Albania) said that while much remained to be done to improve the detention system, significant progress had been made. Penal reform had accelerated, and further measures would be taken to bring standards into line with those enshrined in the Covenant. The overall plan for the improvement of the detention system was being supervised and monitored by experts from Austria. The overhaul of the system had begun in July 2003, in accordance with decision No. 327 of the Council of Ministers, and was continuing.

60. The Ministry of Justice had drafted a series of measures to regulate all areas of juvenile justice. Plans were in place to open an educational institution for juvenile offenders, in order to ensure their reintegration in society.

61. Mr. OMARI (Albania) said that legislation had recently been enacted making provision for compensation for all persons who had been persecuted on grounds of religious belief or other grounds.

62. Affirmative action in favour of women had been practised because it had been proven that women were at a disadvantage in Albanian society. While affirmative action did not provide a complete solution to the problem, it was useful in the short term. Given that almost 50 per cent of graduates were women, opportunities were needed for women to be represented in Parliament and other institutions.

63. The CHAIRPERSON invited the delegation to submit further replies to the Committee's questions within three days and thanked it for having initiated a dialogue with the Committee. He commended the State party for the progress made in legislative terms and encouraged it to continue its efforts to develop a culture of democracy, human rights and tolerance. He was particularly pleased that the Government had ratified Protocol No. 6 to the European Convention on Human Rights concerning the abolition of the death penalty, and urged the Government to ratify the Second Optional Protocol to the Covenant.

64. The Committee was concerned about the status of women, particularly with regard to the Kanun (traditional code), which did not allow women inheritance rights. The situation of minority groups, particularly the Roma, was also worthy of more attention. Other issues of concern included pre-trial detention conditions, prison conditions and the working of the justice system. Further information was also required on certain other questions, including religious communities, the right to freedom of conscience and the work of journalists.

65. Mr. HAJDARAGA (Albania) thanked the members of the Committee for their questions and the interest they had shown in his country. His Government was committed to the promotion of human rights, as was evident from the quantity and quality of legislation that had been enacted, but it was clear that much remained to be done to implement that legislation. The Government was grateful for the assistance it had received from the United Nations and the Council of Europe. It was confident that the Committee's recommendations would be useful in continuing the process of implementing the Covenant. Additional written replies to the Committee's questions would be submitted within three days as requested.

The meeting rose at 6.05 p.m.